

**CLOSED**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

**United States of America**

**v.**

**Francisco Rivera-Pelayo**

Citizen of Mexico

USM#: 75936-208

DOB: 1954

**JUDGMENT IN A CRIMINAL CASE**

(For Offenses Committed on or After November 1, 1987)

**No. 08-16004-001M-SD**

Matthew Johnson (AFPD)  
Attorney for Defendant

ICE#: A19 947 249

**THE DEFENDANT ENTERED A PLEA OF guilty on 7/28/2008 to Count TWO of the Complaint.**

**ACCORDINGLY, THE COURT HAS ADJUDICATED THAT THE DEFENDANT IS GUILTY OF THE FOLLOWING OFFENSE(S):** violating Title 8, USC § 1325, Illegal Entry, a Petty offense, as charged in Count TWO of the Complaint.

**IT IS THE JUDGMENT OF THE COURT THAT** the defendant is hereby committed to the custody of the Bureau of Prisons for a term of **FORTY-FIVE (45) DAYS** on Count TWO, with credit for time served.

**IT IS FURTHER ORDERED** that all remaining counts are dismissed on motion of the United States.

**CRIMINAL MONETARY PENALTIES**

The defendant shall pay to the Clerk the following total criminal monetary penalties:

**SPECIAL ASSESSMENT:** \$Remitted      **FINE:** \$      **RESTITUTION:** \$

If incarcerated, payment of criminal monetary penalties are due during imprisonment at a rate of not less than \$25 per quarter and payment shall be made through the Bureau of Prisons' Inmate Financial Responsibility Program. Criminal monetary payments shall be made to the Clerk of U.S. District Court, Attention: Finance, 880 Front Street, San Diego, California 92101. Payments should be credited to the various monetary penalties imposed by the Court in the priority established under 18 U.S.C. § 3612(c). The total special assessment of \$Remitted shall be paid pursuant to Title 18, United States Code, Section 3013 for Count TWO of the Complaint.

Any unpaid balance shall become a condition of supervision and shall be paid within prior to the expiration of supervision. Until all restitutions, fines, special assessments and costs are fully paid, the defendant shall immediately notify the Clerk, U.S. District Court, of any change in name and address. The Court hereby waives the imposition of interest and penalties on any unpaid balances.

**IT IS FURTHER ORDERED** that the Clerk of the Court deliver two certified copies of this judgment to the United States Marshal of this district.

The Court orders commitment to the custody of the Bureau of Prisons. The defendant is remanded to the custody of the United States Marshal.

**08-16004-001M-SD**

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*USA vs. Francisco Rivera-Pelayo*

~~Date of Imposition of Sentence: Monday, July 28, 2008~~

Date 7/28/2008

~~JAY R. IRWIN, United States Magistrate Judge~~

**RETURN**

I have executed this Judgment as follows: \_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_ at \_\_\_\_\_, the institution  
designated by the Bureau of Prisons, with a certified copy of this judgment in a Criminal case.

By: \_\_\_\_\_

Deputy Marshal

United States Marshal  
08-16004-001M-SD -

DATE: 7/28/2008 CASE NUMBER: 08-16004-001M-SD

## PLEA/SENTENCING MINUTES

USA vs. Francisco Rivera-PelayoU.S. MAGISTRATE JUDGE: JAY R. IRWIN Judge #: 70BKU.S. Attorney \_\_\_\_\_ INTERPRETER REQ'D Ricardo Gonzalez  
Attorney for Defendant Matthew Johnson (AFPD) LANGUAGE: SpanishDEFENDANT:  PRESENT  NOT PRESENT  RELEASED  CUSTODYDOA 7/26/08  Complaint Filed  Appointment of counsel hearing held  
 Financial Afdvt taken  No Financial Afdvt taken  Financial Afdvt sealed  
 Initial AppearanceDETENTION HEARING:  Held  Cont'd  Reset  UA

Set for: before:

Defendant ordered temporarily detained in the custody of the United States Marshal  
 Defendant ordered released (see order setting cond of rel)  Bail set at \$ \_\_\_\_\_  
 Defendant continued detained pending trial  Flight Risk  Danger

PLEA HEARING:  Held  Cont'd  Reset

Set for: before:

Consent to be tried by a Magistrate Judge signed  Class A Misd  Class B Misd  Class C Misd  
 Consent of Defendant  Information filed \_\_\_\_\_  Complaint filed \_\_\_\_\_  
 Defendant sworn and examined by the Court  Plea of Guilty  Not Guilty  Entered to Counts TWO  
 Defendant states true name to be \_\_\_\_\_. Further proceedings ORDERED in defendant's true name.  
 Plea of Guilty entered as to Ct(s) TWO of the  Information  Indictment  Complaint  
 Court recommends/or accepts defendant's plea and finds plea to be freely and voluntarily given.  
 Plea agreement:  Lodged  Filed  Sealed  
 Court does not accept defendant's plea of guilty because \_\_\_\_\_  
 PSI ORDERED  EXPEDITED  PSI waived  Time waived for passage of sentence  
 Continued for sentence to \_\_\_\_\_ before \_\_\_\_\_  
 To be dismissed upon entry of the judgment, Ct(s) ONE  
 ORDER vacate trial date/motion hearing/mtns moot  
 ORDER defendant remain released pending sentence  remanded to USM

## SENTENCING:

Defendant committed to Bureau of Prisons for a period of 45 DAYS  Probation/Supervised Release for \_\_\_\_\_  
 Special Assessment \$ REMITTED  Fine \$ \_\_\_\_\_  Restitution \$ \_\_\_\_\_

Other: \_\_\_\_\_

RECORDED: CS  
BY: Angela J. Tuohy, Deputy Clerk

# United States District Court

## SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

V.

Francisco RIVERA-Pelayo  
Citizen of Mexico  
YOB: 1954  
019947249  
Illegal Alien

CRIMINAL COMPLAINT

CASE NUMBER: 08-16004M-SD

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

### COUNT I

That on or about July 25, 2008, within the Southern District of California, Defendant Francisco RIVERA-Pelayo, an alien, did knowingly and willfully enter the United States at a time or place other than as designated by Immigration Officers and elude examination or inspection by Immigration Officers; in violation of Title 8, United States Code, Section 1325, in that the Defendant was previously convicted for violation of Title 8, United States Code, Section 1325, on May 19, 2008 (Felony).

### COUNT II

That on or about July 25, 2008, within the Southern District of California, Defendant Francisco RIVERA-Pelayo, an alien, did knowingly and willfully enter the United States at a time or place other than as designated by Immigration Officers; in violation of Title 8, United States Code, Section 1325 (Misdemeanor).

Continued on the attached sheet and made a part hereof.

Yes  No

Signature of Complainant  
Joseluis Reynoso  
Senior Patrol Agent

Sworn to before me and subscribed in my presence,

July 28, 2008

Date

at

Yuma, Arizona

City and State

Jay R. Irwin, U.S. Magistrate

Name & Title of Judicial Officer

Signature of Judicial Officer

## STATEMENT OF FACTUAL BASIS

Defendant: Francisco RIVERA-Pelayo

Dependents: None

**IMMIGRATION HISTORY:** The Defendant was previously convicted of illegal entry on May 19, 2008. The Defendant has been apprehended three times by the U.S. Border Patrol.

**CRIMINAL HISTORY:**

<b><u>DATE/LOCATION</u></b>	<b><u>OFFENSE</u></b>	<b><u>DISPOSITION</u></b>
05/19/08 Yuma, Arizona	8 USC 1325 Illegal Entry	20 Days Jail
05/16/72 El Paso, Texas	8 USC 1325 Illegal Entry	5 months and 29 days
01/08/81 Tucson, Arizona	Charge: Burglary	None listed

**Narrative:** The Defendant, a citizen of Mexico and illegally within the United States, was encountered by Yuma Border Patrol agents near Andrade, California.

The Defendant was questioned as to his citizenship and immigration status. Agents determined that the Defendant is an undocumented national of Mexico and illegally in the United States.

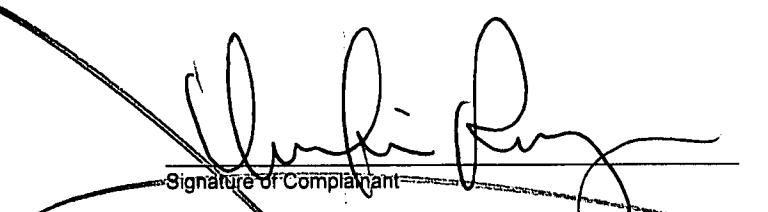
The Defendant was transported to the Yuma station for processing. During processing, questioning and computer record checks the above criminal and immigration information was obtained as it relates to this Defendant.

The Defendant was convicted for 8 USC 1325 Illegal entry on May, 19, 2008, and received a sentence of (20) twenty days.

The Defendant last entered the United States illegally without inspection near Andrade, California on July 25, 2008.

Charges: 8 USC§1325  
8 USC§1325

(Felony)  
(Misdemeanor)

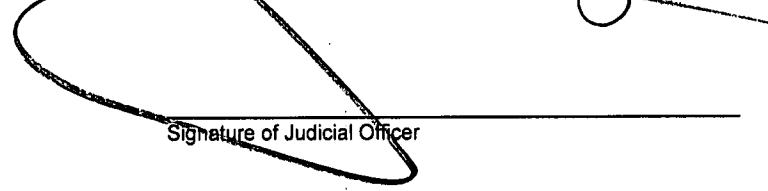


Signature of Complainant

Sworn to before me and subscribed in my presence,

July 28, 2008

Date



Signature of Judicial Officer

**Probable Cause Statement**

I, Senior Patrol Agent Joseluis Reynoso, declare under penalty of perjury, the following is true and correct:

**STATEMENT OF FACTUAL BASIS**

Defendant: Francisco RIVERA-Pelayo

Dependents: None

**IMMIGRATION HISTORY:** The Defendant was previously convicted of illegal entry on May 19, 2008. The Defendant has been apprehended three times by the U.S Border Patrol.

**CRIMINAL HISTORY:**

<b>DATE/LOCATION</b>	<b>OFFENSE</b>	<b>DISPOSITION</b>
05/19/08 Yuma, AZ	8 USC 1325 Illegal Entry	20 Days Jail
05/16/72 El Paso, TX	8 USC 1325 Illegal Entry	5 Months and 29 Days
01/08/81 Tucson, AZ	Burglary-F	None Listed

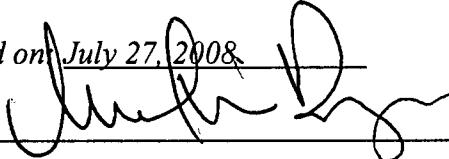
**Narrative:** The Defendant, a citizen of Mexico and illegally within the United States, was encountered by Yuma Border Patrol agents near Andrade, California.

The Defendant was questioned as to his citizenship and immigration status. Agents determined that the Defendant is an undocumented national of Mexico and illegally in the United States.

The Defendant was transported to the Yuma station for processing. During processing, questioning and computer record checks the above criminal and immigration information was obtained as it relates to this Defendant.

The Defendant last entered the United States illegally without inspection near Andrade, California on July 25, 2008.

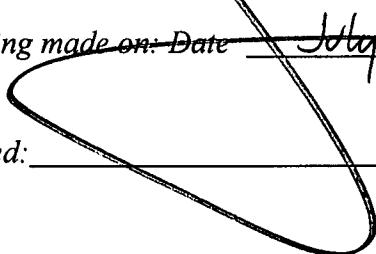
Executed on July 27, 2008 Time: 8:03 AM

Signed:  Senior Patrol Agent

**Finding of Probable Cause**

On the basis of the facts presented in the foregoing Probable Cause Statement, consisting of one page(s), I find probable cause to believe that the defendant(s) named therein committed the offense on July 25, 2008 in violation of Title 8, United States Code, Section 1325.

Finding made on: Date July 27, 2008 Time 10:55 a.m.

Signed:  United States Magistrate Judge